

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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www.montgomerycountymd.gov/content/council/boa/board.asp

Case No. S-2696

PETITION OF HOLGER A. MAZA AND XIMENA A. SALTOS

OPINION OF THE BOARD

(Opinion Adopted July 11, 2007)

(Effective Date of Opinion: August 23, 2007)

Case No. S-2696 is an application for a special exception for an accessory apartment, pursuant to Section 59-G-2.00 of the Zoning Ordinance. The Hearing Examiner for Montgomery County held a hearing on the application on June 11, 2007, closed the record in the case on June 18, 2007, and on June 21, 2007, issued a Report and Recommendation for approval of the special exception.

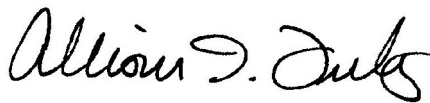
Decision of the Board: Special Exception **Granted** Subject
To conditions Enumerated Below.

The Board of Appeals considered the Report and Recommendation at its Worksession on July 11, 2007. After careful consideration and review of the record in the case, on a motion by Donna L. Barron, Vice-Chair, seconded by Catherine G. Titus, with Wendell M. Holloway, Caryn L. Hines and Allison Ishihara Fultz, Chair in agreement, the Board adopts the Report and Recommendation and **grants** the special exception subject to the following conditions:

1. The Petitioners are bound by their testimony, representations and exhibits of record;
2. Petitioners must correct all issues specified in the Housing Code Inspector's report of June 4, 2007 (Exhibit 13), as follows:
 - a. Install a stove.
 - b. [Eliminate or raise] [t]he bulk heads [which] are less than 80 inches in height, thus creating an unsafe ceiling height condition.
 - c. The fourth bedroom window is stuck shut [and therefore must be unstuck].
 - d. The water heater does not have the pressure relief pipe extending to the ground [and therefore a proper pressure relief pipe must be installed].

- e. The exterior gate opens directly into the window well, thus creating an unsafe condition. Relocate the gate to open in a safe area of the yard.
3. Based on habitable space in the apartment (759.5 square feet), no more than two unrelated persons may reside in the unit, or a family of up to seven individuals;
4. At least one of the co-owner-Petitioners must occupy one of the dwelling units on the lot on which the accessory apartment is located;
5. Petitioners must not receive compensation for the occupancy of more than one dwelling unit;
6. Petitioners must make at least two of the six driveway/garage parking spaces on their property available to the accessory apartment tenants; and
7. Petitioners must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioners shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 23rd day of August, 2007.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.